REMARKS

Claims 1-21 were pending in this application.

Claims 1-21 have been rejected.

Claims 1, 9, and 17 have been amended as shown above.

Claims 1-21 remain pending in this application.

Reconsideration and full allowance of Claims 1-21 are respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 102

The Office Action rejects Claims 1, 9, and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,141,747 to Witt ("*Witt*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP § 2131; In re Bond, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)*). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (*MPEP § 2131; In re Donohue, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)*).

Witt recites that data is stored in a store queue (element 64) for storage in a cache (element 44). (*Col. 12, Lines 18-20*). *Witt* also recites that load and store instructions may be stored in a load/store queue (element 60). (*Col. 13, Lines 26-42*).

Claims 1, 9, and 17 recite storing at least one operand in an "operand queue." Claims 1,

9, and 17 also recite that a "first operand" is written from the "operand queue" to a "buffer" for storage in an "external memory" and that a "second operand" is written "directly to the buffer" bypassing the "operand queue."

The Office Action asserts that element 64 of *Witt* anticipates the "operand queue" recited in Claims 1, 9, and 17. (*Office Action, Page 3, First paragraph*). The Office Action appears to rely on element 60 of *Witt* as anticipating the "buffer" recited in Claims 1, 9, and 17. (*Office Action, Page 3, Second paragraph*). Based on this, in order to anticipate Claims 1, 9, and 17, the Office Action must show that an operand is written from the store queue (element 64) of *Witt* into the load/store queue (element 60) of *Witt* for storage in an external memory and that another operand is written directly to the load/store queue (element 60) bypassing the store queue (element 64) of *Witt*. The Office Action cannot make this showing.

The cited portions of *Witt* contain no recitation that an operand in the store queue (element 64) is written into the load/store queue (element 60). In fact, Figure 2 of *Witt* clearly shows that there is no path leading out of the store queue (element 64) and into the load/store queue (element 60). Because of this, the load/store queue (element 60) of *Witt* cannot anticipate a "buffer" in which a first operand is stored from an "operand queue" for storage in an "external memory" and in which a second operand is "directly" stored "bypassing the operand queue" as recited in Claims 1, 9, and 17.

For these reasons, *Witt* fails to anticipate the Applicant's invention as recited in Claims 1, 9, and 17. Accordingly, the Applicant respectfully requests withdrawal of the § 102 rejection and full allowance of Claims 1, 9, and 17.

II. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claims 2-5, 10-13, and 18-21 under 35 U.S.C. § 103(a) as being unpatentable over *Witt* in view of U.S. Patent No. 5,721,855 to Hinton et al. ("*Hinton*"). The Office Action rejects Claims 6-8 and 14-16 under 35 U.S.C. § 103(a) as being unpatentable over *Witt* and *Hinton* in view of U.S. Patent No. 5,987,593 to Senter et al. ("*Senter*"). These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP § 2142; In re Fritch, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992)*). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. (*MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984)*). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. (*MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993)*). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. (*In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Grabiak, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985)*).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. (*In re Bell, 991 F.2d*

781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993)). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*MPEP § 2142*).

As noted above in Section I, Claims 1, 9 and 17 are patentable. As a result, Claims 2-8, 10-16, and 18-21 are patentable due to their dependence from allowable base claims.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection and full allowance of Claims 2-8, 10-16, and 18-21.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that all claims in the application are in condition for allowance and respectfully requests an early allowance of such claims.

SUMMARY

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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